

REMARKS

Claims 1-7, 16-21 and 44-45 are pending in this application. For purposes of expedition, base claims 1 and 16 have been amended for purposes of clarity and brevity that are unrelated to patentability and prior art rejections while claims 44-45 have been newly added to replace previously canceled claims 22-43 in accordance with current Office policy, to further and alternatively define Applicants' disclosed invention and to assist the Examiner to expedite compact prosecution of the instant application.

Turning now to the substance of the final Office Action, claims 1-3, 5-7, 16, 17 and 19-21 have been rejected under 35 U.S.C. §102(e) as being anticipated by Takahashi, U.S. Publication No. 2002/0136537 for reasons stated on pages 3-7 of the final Office Action. The Examiner has repeated the same rationale provided in the previous Office Action, and cited FIG. 5 and FIG. 19, paragraphs [0074], [0075], [0111] and [0104] of Takahashi '537 for allegedly disclosing a recording medium comprising a spare area, a replacement area (both are located between the inner and outer peripheries), a temporary defect management area storing temporary management information identifying the defective area and the replacement area, wherein position information regarding the defective area is recorded in the replacement area. In addition, the Examiner has also broadly interpreted the "PDLs and SDLs" included in the defect management area (DMA) to contain Applicants' claimed position information regarding the defective area [as] recorded in the replacement area. Therefore, according to the Examiner, the "position information regarding the defective area" is recorded in the DMA.

In response thereto and in the interest of expedition, base claims 1 and 16 have been amended to clearly define [replacement] data recorded in a replacement area included in a spare area, and to incorporate position information regarding the defective area into the [replacement] data recorded in the replacement area included in the spare area. In addition, base claims 1 and 16 have also been clarified that the "defect information" recorded in the defect management area (DMA) is used to identify positions of the defective area and the replacement area. Therefore, as now defined in Applicants' base claims 1 and 16, both (1) the [replacement] data to replace the defective area, and (2) the position information regarding the defective area are recorded in the replacement area included in the spare area.

The purpose of incorporating the position information regarding the defective area into the replacement data recorded in the spare area is to restore defect management. This is done by

finding the position information on the defect data from the [replacement] data recorded in the spare area, when defect management is not performed properly and, therefore, defect management information in the DMA cannot be used.

In contrast to Applicants' base claims 1 and 16, and even assuming *arguendo* that the Examiner's broad interpretation of the "PDLs and SDLs" included in the DMA is correct, the Examiner's broad interpretation is deemed moot since Takahashi '537 does **not** disclose or suggest any relationship between the position information regarding the defective area [as] recorded in the replacement area [included in the spare area] and replacement data, as defined in Applicants' base claims 1 and 16. Specifically, in Takahashi '537, even if the defect management area (DMA) can be arranged in the spare area, the position information regarding the defective area is recorded **only** in the DMA. Such position information regarding the defective area is **not** included in replacement data, as expressly defined in Applicants' base claims 1 and 16. As a result, if defect management is not performed properly in Takahashi '537 and, therefore, defect management information cannot be obtained from the DMA, there is **no** way to obtain the position information on the defect data. As a result, there is **no** way to restore defect management in Takahashi '537.

With respect to claims 2 and 17, Applicants further note that Takahashi '537 also fails to disclose or suggest Applicants' claimed "defect management information [as being updated] in the defect management area (DMA) every recording operation or in response to a predetermined number of recording operations".

In view of these reasons and the changes made to base claims 1 and 16, Applicants respectfully request that the rejection of claims 1-7, 16, 17, 19-21, 39, 40, 42 and 43 under 35 U.S.C. §102(e) be withdrawn.

Separately, claim 4 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi, U.S. Publication No. 2002/0136537, in view of Park, U.S. Publication No. 2005/0022072 for reasons stated on pages 7-8 of the final Office Action. Lastly, claim 18 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi, U.S. Publication No. 2002/0136537 for reasons stated on page 8 of the Office Action. Applicants respectfully traverse these rejections primarily for the same reasons discussed against the rejection of base claims 1 and 16.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to

be allowable, including newly substituted claims 44-45 and this application is believed to be in condition to be passed to issue. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at the Washington DC office at (202) 216-9505. Applicants respectfully reserve all rights to file subsequent related application(s) (including reissue applications) directed to any or all previously claimed limitations/features which have been amended or canceled, or to any or all limitations/features not yet claimed, i.e., Applicants have no intention or desire to dedicate or surrender any limitations/features of the disclosed invention to the public.

INTERVIEW:

In the interest of expediting prosecution of the present application, Applicants respectfully request that an Examiner interview be scheduled and conducted. In accordance with such interview request, Applicants respectfully request that the Examiner, after review of the present Amendment, contact the undersigned local Washington, D.C. area attorney at (202) 216-9505 for scheduling an Examiner interview, or alternatively, refrain from issuing a further action in the above-identified application as the undersigned attorneys will be telephoning the Examiner shortly after the filing date of this Amendment in order to schedule an Examiner interview. Applicants thank the Examiner in advance for such considerations. In the event that this Amendment, in and of itself, is sufficient to place the application in condition for allowance, no Examiner interview may be necessary.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage of fees due in connection with the filing of this paper, including extension of time fees, to the Deposit Account of Stein, McEwen & Bui, LLP, No. 503333, and credit any excess fees to said deposit account.

Respectfully submitted,

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